

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JAMES SISCO, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Case No. 4:11CV1225 JCH  
 )  
 RENAISSANCE HOTEL )  
 MANAGEMENT COMPANY, LLC, et al., )  
 )  
 Defendants. )

**MEMORANDUM AND ORDER**

Defendant Otis Elevator Company (“Otis”) removed this action to this Court July 14, 2011, based upon diversity jurisdiction, pursuant to 28 U.S.C. §§1332, 1441, 1446 (ECF No. 1). Otis claimed that all of the parties to the First Amended Petition were diverse. (Id.) On the same date, Otis filed a Motion to Strike (ECF No. 6) the submission of Plaintiff’s Second Amended Complaint (ECF No. 5) for failure to obtain leave of the Court or consent of the opposing parties to file an amended petition, as required under Mo.R.Civ.P. 55.33(a). The Second Amended Complaint added EMS Group, Inc., a corporation with its principal place of business in Missouri, as a defendant. (ECF No. 5, ¶11).

On July 21, 2011, Plaintiff filed a Motion to Remand (ECF No. 8). Plaintiff noted that he obtained leave of the Honorable Mark Neill, Circuit Court Judge in the Twenty-Second Judicial Circuit, to file his Second Amended Complaint. See ECF No. 8-1. The addition of EMS Group, Inc. in the Second Amended Complaint destroys diversity jurisdiction because it has its principal place of business in Missouri and the Plaintiff is a Missouri resident. Otis has not filed a response to Plaintiff’s Motion to Remand.

The Court grants Plaintiff's Motion to Remand because this Court lacks diversity jurisdiction under 28 U.S.C. §1332, with respect to the Second Amended Complaint.

**CONCLUSION**

Accordingly,

**IT IS HEREBY ORDERED** that Defendant Otis Elevator Company's Motion for Strike (ECF No. 6) is **DENIED**.

**IT IS HEREBY FURTHER ORDERED** that Plaintiff's Motion to Remand (ECF No. 8) is **GRANTED**.

**IT IS HEREBY FURTHER ORDERED** that this case is **REMANDED** to the Circuit Court of the City of St. Louis, State of Missouri. An appropriate Order of Remand will accompany this order.

Dated this 16th day of August, 2011.

/s/ Jean C. Hamilton  
UNITED STATES DISTRICT JUDGE